153 U.S. 32

RECORD, CASE NO. 14338.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1893.

TERM NO., 296.

ANTHONY F. SEEBERGER, COLLECTOR OF CUSTOMS FOR THE PORT AND DISTRICT OF CHICAGO, PLAINTIFF IN ERROR,

vs.

DANIEL CASTRO.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

FILED OCTOBER 18, 1890.

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a United States circuit court, northern district of Illinois.

DANIEL CASTRO
vs.
ANTHONY F. SEEBERGER, COLLECTOR OF customs for the port and district of Chicago. } Assumpsit, 21240.

Wm. G. Ewing, United States attorney, attorney for plaintiff in error.
P. L. Shuman, esq., attorney for defendant in error.

1 Pleas in the circuit court of the United States of America for the northern district of Illinois, held at the United States court rooms in the city of Chicago, in the district aforesaid, before the Hon. Henry W. Blodgett, judge of the district court of the United States for the northern district of Illinois, on Thursday, the eighteenth day of July, in the July term of said court, in the year of our Lord one thousand eight hundred and eighty-nine, and of our Independence the one hundred and fourteenth year.

WM. H. BRADLEY,
Clerk.

DANIEL CASTRO
vs.
ANTHONY F. SEEBERGER, COLLECTOR OF customs for the port and district of Chicago. } Assumpsit.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

Be it remembered that on the fourth day of April, 1889, came the plaintiff, by his attorneys, and filed in the office of the clerk of the circuit court of the United States for the northern district of Illinois at Chicago, in said district, his præcipe for a writ of summons, and also at the same time filed his bond for cost in said entitled cause, which said præcipe and bond are in the words and figures following, to wit:

2 *Præcipe.*

UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

United States circuit court for the northern district of Illinois, May term, A. D. 1889.

DANIEL CASTRO
vs.
ANTHONY F. SEEBERGER, COLLECTOR OF customs for the port and district of Chicago. } Assumpsit. Damages, $500.00.

The clerk of said court will issue a summons in the above-entitled cause to said defendant in a plea of trespass on the case on promises to

the damage of said plaintiff in the sum of five hundred dollars, and direct the same to the marshal of said district to execute and make it returnable to the May term of said court, A. D. 1889.

SHUMAN & DEFREES,
Plaintiff's Attorneys.

To WM. H. BRADLEY, Esq., clerk.

CHICAGO, *April 4th*, 1889.

(Endorsed:) Filed Ap'l 4, 1889. Wm. H. Bradley, clerk.

3 *Bond for costs.*

UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

Circuit court, May term, A. D. 1889.

DANIEL CASTRO
vs.
ANTHONY F. SEEBERGER, COLLECTOR, &C. } In law.

We enter ourselves security for costs in this cause, and promise to pay all costs which may accrue to the opposite party in this action or to any of the officers of this court; and in default of payment by the plaintiff of any costs ordered or adjudged to be paid by him, we hereby agree and stipulate that execution may issue against our property for any costs taxed against plaintiff.

Dated this 4th day of April, A. D. 1889.

SHUMAN & DEFREES.

(Endorsed:) Filed Ap'l 4, A. D. 1889. Wm. H. Bradley, clerk.

4 On the same day, to wit, on the fourth day of April, 1889, there issued out of said clerk's office a writ of summons in said entitled cause, which said writ, together with the return of the marshal endorsed thereon, is in the words and figures following, to wit:

Summons.

Circuit court of the United States of America, northern district of Illinois, ss:

The United States of America to the marshal of the northern district of Illinois, greeting:

We cammand you to summon Anthony F. Seeberger, collector of customs for the port and district of Chicago, if found in your district, to be and appear before our judges of our circuit court of the United States for the northern district of Illinois, on the first day of the next term thereof, to be holden at Chicago, in the district aforesaid, on the first Monday of May next, to answer unto Daniel Castro of a plea of trespass on the case upon promises to his damage, as is alleged, of five hundred dollars, and have you then and there this writ.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, at Chicago, aforesaid, this 4th day of April, in the year of our Lord one thousand eight hundred and
5 eighty-nine, and of our Independence the 113th year.

[SEAL.] WM. H. BRADLEY,
Clerk.

Marshal's return.

I have served the within writ by reading the same to and within the presence and hearing of Anthony F. Seeberger, collector of customs for the port and district of Chicago, therein named, on the 4th day of April, 1889.

F. H. MARSH,
U. S. Marshal.
By GEO. N. JONES,
Deputy.

(Endorsed:) Filed Ap'l 5, A. D. 1889. Wm. H. Bradley, clerk.

6 Afterward, to wit, on the 16th day of April, 1889, came the defendant, by his attorneys, and filed in said clerk's office his declaration in said entitled cause, which said declaration is in the words and figures following, to wit:

Declaration.

UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

In the United States circuit court for the northern district of Illinois, to the May term, 1889.

Daniel Castro, plaintiff in this suit (which is a suit arising under the revenue laws of the United States, and is brought to recover duties claimed by the plaintiff to have been illegally exacted of him and by him paid under protest), by Shuman & Defrees, his attorneys, complains of Anthony F. Seeberger, collector of customs for the port and district of Chicago, defendant herein, who was summoned, etc., of a plea of trespass on the case on promises.

For that whereas the said plaintiff heretofore, to wit, on the first day of April, in the year of our Lord one thousand eight hundred and eighty-nine, at, to wit, the northern district of Illinois, made payment to the said defendant collector, as aforesaid, of a certain large sum of money, to wit, the sum of five hundred dollars and cents, lawful money of the
7 United States, as duties, under protest, and in order to obtain possession of certain scrap tobacco, merchandise imported into the United States for him, the said plaintiff, entered for consumption at the custom-house at the port of Chicago, in the district aforesaid, under the charge and control of the said defendant as such collector; and the said plaintiff avers that said sum of money above specified so paid to the said defendant as aforesaid, as duties as aforesaid, was in excess of the

amount of duties authorized by the laws of the United States to be levied, collected, and paid upon the merchandise aforesaid, and was by the said defendant collector illegally demanded and exacted of and from the said plaintiff.

And the said plaintiff avers that within ten days after the ascertainment and liquidation of the duties upon the merchandise aforesaid, by the proper officers of the customs, he, the said plaintiff, being dissatisfied with the decision of the said collector, gave notice in writing to the said defendant, as collector, setting forth therein distinctly and specifically the ground of his, the said plaintiff's, objection thereto, and that within thirty days after the date of the said ascertainment and liquidation as aforesaid the plaintiff appealed to the Secretary of the Treasury of the United States.

And the said plaintiff avers that the decision of the said Secretary of the Treasury has been had on said appeal, and that this suit has
8 been brought within ninety days after the decision of the said Secretary of the Treasury on such appeal.

By means whereof and by force of the statute of the United States in such case made and provided the said defendant became liable to pay to the plaintiff the sum of five hundred dollars and ——— cents, lawful money as aforesaid, so illegally demanded of, and under protest paid by, the said plaintiff as aforesaid, and being so liable the said defendant afterwards, to wit, on the day and year and at the district aforesaid, in consideration thereof, undertook and then and there faithfully promised the said plaintiff well and truly to pay to the said plaintiff the said sum of money when he, the said defendant, should be thereunto afterwards requested.

And whereas also the said plaintiff afterwards, to wit, on the first day of April, A. D. 1889, at, to wit, the port and district aforesaid, made payment to the said defendant collector as aforesaid of a certain other large sum of money, to wit, the sum of five hundred dollars and ——— cents, lawful money of the United States, as duties, under protest, and in order to obtain possession of certain other merchandise imported into the United States for him the said plaintiff, entered for consumption at the
9 custom-house at the port of Chicago, in the district aforesaid, under the charge and control of the said defendant as such collector; and the said plaintiff avers that said sum of money above specified, so paid to the said defendant as aforesaid, as duties as aforesaid, was in excess of the amount of duties authorized by the laws of the United States to be levied, collected, and paid upon the merchandise aforesaid, and was by the said defendant collector illegally demanded and exacted of and from the said plaintiff.

And the said plaintiff avers that within ten days after the ascertainment and liquidation of the duties upon the merchandise aforesaid by the proper officers of the customs, he, the said plaintiff, being dissatisfied with the decision of the said collector, gave notice in writing to the said defendent, as collector, setting forth therein distinctly and specifically the ground of his the said plaintiff's objection thereto, and that within thirty days after the date of the said ascertainment and liquidation as aforesaid the plaintiff appealed to the Secretary of the Treasury of the United States.

And the plaintiff avers that the decision of the said Secretary of the Treasury has been had on said appeal, and that this suit has been brought

within ninety days after payment of the duties aforesaid, which said payment was made after the decision of the Secretary of the Treasury aforesaid.

By means whereof and by force of the statute of the United States in such case made and provided the said defendant became liable to pay to
10 the said plaintiff the sum of five hundred dollars and ——— cents, lawful money as aforesaid, so illegally demanded of, and under protest paid by, the said plaintiff as aforesaid, and being so liable, the said defendant afterwards, to wit, on the day and year, at the district aforesaid, in consideration thereof, undertook and then and there faithfully promised the said plaintiff well and truly to pay to the said plaintiff the said sum of money when he, the said defendant, should be thereunto afterwards requested.

And whereas also the said defendant afterwards, to wit, on the same day and year, and at the place last aforesaid, became and was indebted to the said plaintiff in the further sum of five hundred dollars, like lawful money as aforesaid, for money by the said defendant before that time had and received to and for the use of the said plaintiff; and being so indebted the said defendant afterwards, to wit, on the day and year and at the district last aforesaid, in consideration thereof, undertook and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff the said sum of money last mentioned whenever the said defendant should be thereunto afterwards requested. Nevertheless, the said defendant (although often requested, etc.) has not paid the said several sums of money above specified, or any or either of them, or any part thereof, to the said plaintiff; but to pay the same or any part thereof to the said plaintiff the said defendant hath hitherto wholly neglected
11 and refused, and still does so neglect and refuse, to the damage of the said plaintiff, in the sum of five hundred dollars, and therefore the said plaintiff brings his suit, &c.

SHUMAN & DEFREES,
Plaintiff's Attorneys.

(Endorsed:) Filed Ap'l 16, 1889. Wm. H. Bradley, clerk.

Afterward, to wit, on the nineteenth day of April, 1889, came the defendant, by his attorney, and filed in said clerk's office his appearance in said entitled cause, which said appearance is in the words and figures following, to wit:

Appearance.

UNITED STATES CIRCUIT COURT,
Northern District of Illinois:

DANIEL CASTRO
vs.
ANTHONY F. SEEBERGER, COLLECTOR, &C. } No. 21240. Assumpsit.

The appearance of Anthony F. Seeberger, collector, defendant in this cause, is hereby entered by his attorney.

WM. G. EWING,
United States Attorney.

(Endorsed:) Filed Apr. 19, 1889. Wm. H. Bradley, clerk.

12 Afterward, to wit, on the first day of June, 1889, came the defendant by his attorney and filed in said clerk's office his plea in said entitled cause, which said plea is in the words and figures following, to wit:

Plea.

In the circuit court of the United States of America for the northern district of Illinois, northern division, May term, 1889.

ANTHONY F. SEEBERGER, COLLECTOR, &C.,
ats.
DANIEL CASTRO. } No. 21240. Assumpsit.

And the said Anthony F. Seeberger, collector, &c., defendant, by William G. Ewing, United States attorney for this district, his attorney, comes and defends, etc., when, etc., and says that he did not undertake or promise in manner and form as the said plaintiff has above thereof complained against him; and of this the said defendant puts himself upon the country, etc.

WILLIAM G. EWING,
U. S. Attorney for Defendant.

(Endorsed:) Filed June 1, 1889. Wm. H. Bradley, clerk.

13 Afterward, to wit, on the twelfth day of June, 1889, there was filed in said clerk's office a stipulation in said entitled cause, which said stipulation is in the words and figures following, to wit:

Stipulation.

UNITED STATES OF AMERICA,
Northern district of Illinois, ss:

In the circuit court of the United States for the northern district of Illinois.

DANIEL CASTRO,
vs.
ANTHONY F. SEEBERGER, COLLECTOR, &C. } Gen. No. 21240.

It is hereby stipulated that the above-entitled cause may be submitted to the court for trial without a jury, a jury being hereby expressly waived.

SHUMAN & DEFREES,
Attorneys for Plaintiff.
W. G. EWING,
U. S. Attorney, for Defendant.

(Endorsed:) Filed this 12th day of June, A. D. 1889. Wm. H. Bradley, clerk.

14 Afterward, to wit, on the fourteenth day of June, in the adjourned May term of said court, 1889, in the record of the proceedings thereof in said entitled cause, before Hon. Henry W. Blodgett, district judge, is the following entry, to wit:

Order.

DANIEL CASTRO
vs.
ANTHONY F. SEEBERGER, &C. } Assumpsit.

Now come the parties by their attorneys and upon issue joined herein by agreement of the parties as per stipulation filed they waive the intervention of a jury, and for trial put themselves upon the court, and after hearing the evidence and the arguments of the counsel the court finds the issue for the plaintiff and assesses his damages at two hundred and fifty-four dollars and sixty-one cents.

15 Afterward, to wit, on the eighteenth day of July, 1889, there was filed in said clerk's office the opinion of Judge Blodgett in said entitled cause, which said opinion is in the words and figures following, to wit:

Opinion.

U. S. circuit court, N. Dist. of Illinois.

DANIEL CASTRO
vs.
ANTHONY F. SEEBERGER, COLLECTOR, &C. } July 18, 1889.

BLODGETT, *J.:*

The Roper & Baxter Cigar Company imported into the port of Chicago a quantity of tobacco clippings, being the ends cut off, and pieces of leafs broken, from cigars in process of manufacture, upon which the collector assessed a duty of 40 per cent per pound as "manufactured tobacco," under clause 249 of Heyl's arrangement of the act of March 3, 1883.

The importers insisted that said tobacco was dutiable at 30 per cent ad valorem as "unmanufactured tobacco" under clause 251 of Heyl, protested and appealed to the Secretary of the Treasury, by whom the action of the collector was affirmed. After the assessment of duties as
16 aforesaid, and pending such appeal the tobacco remained in bond, and while the appeal was pending plaintiff purchased the tobacco from the importer. After the decision of the appeal plaintiff paid the duties so assessed in order to obtain possession of the tobacco, and brought this suit in apt time after the decision of the appeal to recover the difference between the duties assessed and paid and the rate contended for by the importer.

The question as to the classification and rate of duty upon tobacco clippings like the goods in question, was fully considered and decided by this court in Cohen vs. Spalding, 24 Fed. R., 19, and I see no reason for changing the ruling there made.

But it is further contended in behalf of defendant that as plaintiff did not import this tobacco, and was not the owner, consignee, or agent of the

goods at the time they were classified and the duties imposed upon them by the collector, and did not take the appeal to the Secretary of the Treasury, he can not maintain this suit to recover the excess of duties claimed to have been paid.

Sec. 2931 of the Revised Statutes provides for an appeal to the Secretary of the Treasury by the owner, importer, consignee, or agent of the merchandise, if dissatisfied with the action of the collector in the ascertainment and liquidation of the duties, and the contention is that as

17 plaintiff was neither the owner, importer, owner, or agent of the goods at the time the duties were assessed, he is not one of the persons allowed to bring suit, under the law, to recover the duties so paid.

It seems to me that a liberal interpretation of this provision of the statute authorizing a suit to test the legality of the collector's action in the matter of the assessment of duties should be given, so as, if possible, to bring all cases which may occur in the course of business before the proper tribunal for adjudication. In the case before us, there is no doubt but that the importer of the goods, who was also the owner at the time they were imported, entered, and the duty assessed, took the proper steps to question before the courts the action of the collector. A protest in due form was made and an appeal to the Secretary of the Treasury taken from the collector's action, and pending such appeal the importer sold the goods, which still remained in bond, to the plaintiff, and after the decision of the appeal the plaintiff paid the duties exacted and against which due protest had been made.

The purchase by him virtually places him in the shoes of the importer; he takes the goods with the contest upon them, and it seems to me he has the election to continue the contest, which the importer had commenced by the protest and appeal, asking the judgment of the court in regard to the validity of the classification and assessment for duty made by the collector.

18 I can not see how any harm can come to the Government or to the collector from this construction of the law. The only objection that is seriously urged to it is, that it would be in the power of the importer to split an importation up into many cases by selling the goods in bond to different persons, and allowing each of them to maintain a suit for the duties paid upon the portion so purchased; but this is not so serious an objection as would be a ruling which should prevent a sale by the importer pending a contest as to the validity of the collector's action. If the owner or importer who has appealed can only bring the suit, an importer or owner would be compelled to hold the goods, perhaps greatly to his loss, until the contest is decided by the Secretary of the Treasury or submit to the exaction of the collector's assessment, and if a purchaser who has paid the duties properly protested against can not maintain a suit, then, no one has any remedy.

I am therefore of opinion that the objection taken to the right of the plaintiff to maintain this action as to the Roper & Baxter Cigar Company tobacco is not well taken, and that the plaintiff is entitled to recover as to all the tobacco in question in this case.

Shuman & Defrees for plaintiff.

W. G. Ewing, U. S. Dist. Atty., and G. H. Harries for defendant.

(Endorsed:) Filed July 18, 1889. Wm. H. Bradley, clerk.

19 On the same day, to wit: On the eighteenth day of July, in the July term of said court, 1889, in the record of the proceedings thereof in said entitled cause before Hon. Henry W. Blodgett, district judge, is the following entry, to wit:

Judgment.

DANIEL CASTRO
vs.
ANTHONY F. SEEBERGER, COLLECTOR, &C., } Assumpsit.

On motion of the plaintiff's attorney for judgment herein, it is thereupon considered and adjudged by the court that said plaintiff do have and recover of said defendant the said sum of two hundred and fifty-four dollars and sixty-one cents, his damages with interest thereon from time of payment, together with his costs in this behalf amounting to twenty-three dollars and seventy-six cents. And the court finds that there was probable cause for the acts done herein by said defendant and orders that execution do not issue herein.

20 On the hearing of said cause the following exceptions were taken and were allowed by the court and made of record, which said exceptions are in the words and figures following, to wit:

Defendant's bill of exceptions.

In the circuit court of the United States in and for the northern district of Illinois, northern division.

DANIEL CASTRO
vs.
ANTHONY F. SEEBERGER, COLLECTOR OF CUSTOMS, etc. } General No. 21240.

Be it remembered that upon the trial of this cause, which was by written stipulation submitted to the court without a jury, the court, amongst other things, made the following special finding of the facts in the cause, which special finding is in words and figures as follows, to wit:

Special finding.

UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

In the circuit court of the United States for the northern district of Illinois.

DANIEL CASTRO
vs.
ANTHONY F. SEEBERGER, COLLECTOR OF CUSTOMS. } No. 21240—675. Assumpsit.

Come now the parties, and this case having been submitted to the court for trial, without a jury, a jury having been expressly waived
21 by stipulation in writing, filed herein, and the court having heard the evidence and arguments of counsel, finds the facts specially as follows:

That prior to the commencement of this suit the plaintiffs imported and entered at the custom-house, in the port and district of Chicago, a lot of

tobacco, upon which said merchandise the plaintiff paid a duty of forty cents per pound, assessed by the defendant as manufactured tobacco under Schedule "F," section 2502, act of March 3, 1883, namely: "Tobacco manufactured, of all descriptions, and stemmed tobacco, not specially enumerated or provided for in this act, forty cents per pound." (T. I., New, 249.)

That for the purpose of obtaining possession of said merchandise the plaintiff, under protest, paid to the defendant, as such collector, the duties demanded of him.

That within ten days after the ascertainment and liquidation of the duties upon the merchandise in question by the proper officers of the customs, the plaintiff gave notice, in writing, to the collector, setting forth therein distinctly and specifically the grounds of his objection to the duties assessed upon said merchandise, and within thirty days after such ascertainment and liquidation of the duties as aforesaid, the plaintiff duly appealed therefrom to the Secretary of the Treasury.

That in such protest and appeal the plaintiff claimed said mer-
22 chandise should be assessed a duty of thirty per centum ad valorem as unmanufactured tobacco under Schedule "F," section 2502, act of March 3, 1883, namely:

"Tobacco unmanufactured, not specially enumerated or provided for in this act, thirty per centum ad valorem." (T. I., New, 251.)

That the decision of the Secretary of the Treasury was had on said appeal adversely to the claim of the plaintiff, and this suit was brought within ninety days after payment of the duties demanded, which payment was made after such decision of the Secretary of the Treasury on such appeals to recover the alleged excess of duties amounting to $254.61.

And from the evidence in this case the court further finds that the tobacco in question consisted of clippings from the ends of cigars and pieces broken from the tobacco of which cigars are manufactured in the process of such manufacture, that said clippings and pieces are not fit for any use in the condition in which the same are imported; that their only use is to be manufactured into cigarettes and smoking tobacco.

I therefore find that the said tobacco should have been assessed for duty under clause 251 of Heyl's arrangement of the act of March 3, 1883, as "tobacco unmanufactured, not specially enumerated or provided for in this act, 30 per cent ad valorem."

23 The issue is therefore found for the plaintiff and the damages assessed at $254.61, with interest thereon from date of payment, and the costs of this suit.

(Endorsed:) Filed June 14, 1889. Wm. H. Bradley, clerk.

And thereupon the court proceeds and further finds the facts in the said case to be that the plaintiff, D. Castro, did not himself import this tobacco, and was not himself the owner, consignee, or agent of the goods at the time they were classified and the duties imposed upon them by the collector, and did not take the appeal to the Secretary of the Treasury, but that the Roper & Baxter Cigar Company, a corporation, did import said tobacco and was the owner, consignee, and agent of the goods at the time of their classification, and did make the protest and take such appeal to the Secretary of the Treasury.

That the protest in due form was made and an appeal to the Secretary of the Treasury from the collector's action by said Roper & Baxter Cigar Company, and that pending such appeal the Roper & Baxter Cigar Company sold the goods which still remained in bond to the plaintiff, and after the decision of the appeal the plaintiff in this suit paid the duties exacted, and against which protest had been made, and brought this suit in apt time to recover the said duties so paid by him.

24 And thereupon defendant, by his counsel, insisted and asked the court to rule that the said D. Castro could not maintain this suit, but the court overruled such contention on behalf of the defendant's counsel and held that the said Castro was entitled to maintain this suit.

And thereupon the court further held as a matter of law upon the facts hereinbefore set forth that the said goods involved in this suit were not a manufacture of tobacco within the meaning of the tariff act.

To which said findings as to the law by the court, the defendant, by his counsel, then and there duly excepted, and tenders this his bill of exceptions, which he prays may be sealed, signed, and enrolled, and made a part of the record, and the same is done accordingly.

H. W. BLODGETT, [SEAL.]
Judge.

(Endorsed:) Filed July 18, 1889. Wm. H. Bradley, clerk.

25 NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the circuit court of the United States for said northern district of Illinois, do hereby certify the above and foregoing to be a true and correct transcript of the record of all the proceedings had in said court in the cause wherein Daniel Castro is plaintiff, and Anthony F. Seeberger, collector of customs for the port and district of Chicago, is defendant, as the same appears from the records and files of said court now remaining in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at my office in Chicago, in said district, northern division, this twenty-fourth day of February, 1890.

[SEAL.] WM. H. BRADLEY,
Clerk.

26 UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

The United States of America.

To the judges of the circuit court of the United States, for the northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is before you in said circuit court between Daniel Castro and Anthony F. Seeberger, collector of customs for the port and district of Chicago, in an action of assumpsit a manifest error hath happened, to the great damage of the said Anthony F. Seeberger, collector of customs for the port and district of Chicago, as by his complaint appears; and it being fit that the error, if any there has been, should be duly corrected,

and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be given therein, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October, A. D. 1890, in the Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 3rd day of February, in the year of our Lord one thousand eight hundred and ninety, and of the Independence of the United States the 114th year.

[SEAL.] WM. H. BRADLEY,
Clerk of the Circuit Court of the United States
for the Northern District of Illinois.

(Indorsed:) Supreme Court of the United States. Anthony F. Seeberger, collector of customs for the port and district of Chicago, plaintiff in error, vs. Daniel Castro, defendant in error. Writ of error. Copy deposited for the defendant in error in the clerk's office, U. S. northern district of Illinois.

27 UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

To DANIEL CASTRO, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October, A. D. 1890, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the northern district of Illinois, wherein Daniel Castro is plaintiff and Anthony F. Seeberger, collector of customs for the port and district of Chicago, is defendant, to show cause, if any there be, why the error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Henry W. Blodgett, judge, this twelfth day of February, in the year of our Lord one thousand eight hundred and ninety.

H. W. BLODGETT,
Judge.

Service accepted.

PERCY L. SHERMAN,
Atty. for Deft. in Error.

2, 12, '90.

(Indorsed:) 21240. Supreme Court of the United States. Daniel Castro vs. Anthony F. Seeberger, coll'r. Citation to October term, A. D. 1890.

(Indorsed on cover:) No. 296. Anthony F. Seeberger, collector of customs for the port and district of Chicago, plaintiff in error, vs. Daniel Castro. 14338. N. Illinois, C. C. U. S. Filed October 18, 1890.